

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Abigail Shuster	Team: Squad #15	CCRB Case #: 201506288	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/28/2015 10:25 PM	Location of Incident: In front of § 87(2)(b) en route to 79th Precinct stationhouse; 79th Precinct stationhouse	Precinct: 79	18 Mo. SOL 1/28/2017	EO SOL 1/28/2017	
Date/Time CV Reported Wed, 07/29/2015 4:43 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/29/2015 4:43 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Richard Danese	12075	934715	079 PCT
2. POM Julio Ramos	05241	952144	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Conway Hughes	19227	950603	079 PCT
2. POM Chris Maldonado	15050	956870	079 PCT
3. SGT Brian Beegan	1076	945147	079 PCT
4. SGT Andrew Chance	00381	928054	079 PCT
5. SGT Darnell Simon	04526	942549	079 PCT
6. POM Sean Oconnor	13467	952062	079 PCT
7. POM Devin Fitzgerald	12999	955919	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Richard Danese	Abuse: At § 87(2)(b) in Brooklyn, PO Richard Danese threatened § 87(2)(b) and § 87(2)(b) with the use of force.	
B.POM Richard Danese	Abuse: At § 87(2)(b) in Brooklyn, PO Richard Danese stopped § 87(2)(b)	
C.POM Richard Danese	Off. Language: At § 87(2)(b) in Brooklyn, PO Richard Danese made remarks to § 87(2)(b) based upon gender.	
D.POM Richard Danese	Force: At § 87(2)(b) in Brooklyn, PO Richard Danese used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
E.POM Julio Ramos	Force: At § 87(2)(b) in Brooklyn, PO Julio Ramos used physical force against § 87(2)(b)	
F.POM Richard Danese	Force: En route to the 79th Precinct stationhouse, PO Richard Danese used physical force against § 87(2)(b)	
G.POM Richard Danese	Force: En route to the 79th Precinct stationhouse, PO Richard Danese struck § 87(2)(b) with a blunt instrument.	
H.POM Richard Danese	Force: En route to the 79th Precinct stationhouse, PO Richard Danese used a chokehold against § 87(2)(b)	
I.POM Richard Danese	Force: En route to the 79th Precinct stationhouse, PO Richard Danese restricted § 87(2)(b)'s breathing.	
J.POM Richard Danese	Abuse: At the 79th Precinct stationhouse, PO Richard Danese did not obtain medical treatment for § 87(2)(b)	
K.POM Richard Danese	Discourtesy: At the 79th Precinct stationhouse, PO Richard Danese spoke discourteously to § 87(2)(b)	

### Case Summary

§ 87(2)(b) filed this complaint with the CCRB on July 29, 2015. Between August 3, 2015, and November 4, 2015, 9 officers and 6 civilians provided testimony about the incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

On July 28, 2015, at approximately 10:15pm, PO Richard Danese, PO Conway Hughes, and PO Julio Ramos of the 79<sup>th</sup> Precinct arrived at § 87(2)(b) in Brooklyn in response to a civilian complaint concerning that location. At such time, PO Danese allegedly told § 87(2)(b) § 87(2)(b) and § 87(2)(b) that he would “call some rookie cops to beat [their] asses”(Allegation A). He then requested § 87(2)(b)'s identification and informed him that he would be summonsed for disorderly conduct (Allegation B). After § 87(2)(b) refused to provide his identification, PO Danese handcuffed him and brought him to the police van where he allegedly told § 87(2)(b) “You little pussy bitch, I’ll fuck you up”(Allegation C).

PO Danese and PO Ramos then allegedly threw § 87(2)(b) into the police van, with PO Danese allegedly making contact with § 87(2)(b)'s neck in the process (Allegations D and E).

En route to the 79<sup>th</sup> Precinct stationhouse, PO Danese allegedly placed his knee onto § 87(2)(b)'s back and punched him on the left side of his face as well as on the right side of his face while holding a metal object (Allegations F and G). PO Danese then allegedly placed § 87(2)(b) in a chokehold for approximately three minutes, restricting his breathing as he did so (Allegations H and I). During these same minutes, PO Danese allegedly punched § 87(2)(b) in the left side of his rib area three or four times (Allegation F).

§ 87(2)(b) alleged that he told PO Danese two times at the stationhouse that he wished to go to the hospital, and that PO Danese failed to obtain medical attention for him (Allegation J). After verifying § 87(2)(b)'s identity, PO Danese allegedly approached § 87(2)(b) in the holding cell area and said, “It’s not a fucking game anymore, what’s your real name?” (Allegation K).

§ 87(2)(b) was charged with § 87(2)(b).

### Video Footage

§ 87(2)(b) captured video footage of the incident on his cell phone. Though the visual quality is poor because it was filmed at nighttime, figures are visible in the vicinity of a marked police van. The audio, which is clearer, captures § 87(2)(b) refusing to get inside. Conversation between officers, § 87(2)(b) and members of the crowd, can be heard on the recording. At 0:50 on the video, the van doors close, and the crowd immediately erupts into shouts in unison. Their shouts continue until 1:14, when the video ends (See Board Review 21 and 22).

### Mediation, Criminal and Civil Histories

- Because § 87(2)(b) was arrested as a result of this incident, this case was not eligible for mediation.
- A New York State Office of Court Administration search, performed on November 15, 2015, indicated that § 87(2)(b) has no prior criminal convictions. § 87(2)(b)

§ 87(2)(b)

- On September 16, 2015, § 87(2)(b) filed a notice of claim with the City of New York, claiming that he was illegally stopped, searched, falsely arrested, and assaulted during this incident, and seeking \$750,000 in damages (BR 2). A 50H hearing, as of the date of this investigation's closure, has not been scheduled.

#### **Civilian and Officer CCRB Histories**

- This is § 87(2)(b)'s first CCB complaint (BR 3).
  - This is § 87(2)(b)'s first CCRB complaint (BR 3).
  - This is § 87(2)(b)'s second CCRB complaint. § 87(2)(b)
- § 87(2)(g)
- PO Richard Danese, during his 11 year tenure with the NYPD has been the subject of nine previous CCRB allegations involving three cases and resulting in no substantiated allegations. Among the nine allegations were two physical force allegations which were closed as complainant/victim uncooperative without a full investigation. § 87(2)(g)
- § 87(2)(g)
- PO Julio Ramos, during his three-year tenure with the NYPD, has been the subject of 7 previous allegations, including four force allegations, none of which have been substantiated. Case number 201507432, which includes another force allegation, is currently under investigation. § 87(2)(g)

#### **Findings and Recommendations**

##### **Allegation A – Abuse of Authority – At § 87(2)(b) in Brooklyn, PO Richard Danese threatened § 87(2)(b) and § 87(2)(b) with the use of force.**

It is undisputed that, while responding to a civilian complaint concerning this location, PO Danese instructed those individuals gathered outside of it to disperse. It is also undisputed that, while speaking to three of the individuals § 87(2)(b) and § 87(2)(b) PO Danese informed them that if they did not follow his instructions, he would call additional officers to the scene. The precise nature of his remark, however, is in dispute.

§ 87(2)(b) alleged that, after § 87(2)(b) told PO Danese that they were just there hanging out, PO Danese replied, "I should get a whole lot of rookie cops out here and you know what they'll do." During his initial complaint, § 87(2)(b) stated that PO Danese told him that he would "call a bunch of rookie cops to beat his ass." (BR 4).

§ 87(2)(b) stated that PO Danese said to the three individuals, "I wish you had that mouth on you when I come back with some rookie cops" (BR 6). § 87(2)(b) stated that PO Danese asked them, "Do you want me to get some rookie cops to beat your ass? They're not going to be as polite as me" (BR 5). § 87(2)(b) an acquaintance of § 87(2)(b) s who was standing ten feet away, heard PO Danese tell § 87(2)(b) and his friends, "I suggest you move; I'm gonna get some rookies to come and kick your asses" (BR 8).

PO Danese testified that, after repeatedly instructed these individuals to leave the location, he told them that, “If I push this button here [referring to his radio], 50 cops that look and dress exactly like me are going to show up and it’s going to turn into something that you don’t want.” He denied telling any of the individuals that he was going to “get a whole bunch of rookie cops to beat [their] asses” (BR 11).

PO Ramos and PO Hughes both testified that they did not hear PO Danese say, “I should get a whole lot of rookie cops out here to beat your asses,” or any similar threat of force. They each noted, however, that PO Danese did tell § 87(2)(b) that if he did not disperse, PO Danese would have to call for backup officers (BR 13 and BR 14).

§ 87(2)(g)  
[REDACTED]

An officer may make a threat of force, if not egregious, only when it performs a legitimate police function, particularly if it is used in lieu of further escalation of violence. NYPD v. Briscoe, OATH No. 1328/00 (BR 28).

§ 87(2)(g)  
[REDACTED]

**Allegation B – Abuse of Authority - At § 87(2)(b) in Brooklyn, PO Richard Danese stopped § 87(2)(b)**

While all parties agree that PO Danese instructed the individuals gathered at this location to leave, and that § 87(2)(b) refused to do so and was subsequently handcuffed, the remaining circumstances of the stop are in dispute.

§ 87(2)(b) stated that he had been standing in front of the location for fewer than five minutes, time he spent talking on the sidewalk with § 87(2)(b) and § 87(2)(b). He testified that no members of the 20 to 25-person group were drinking alcohol or smoking marijuana, and that they were gathered there to debrief a fight that had occurred on the block earlier that evening. § 87(2)(b) reported that, after PO Danese asked him whether he lived on the block and § 87(2)(b) replied in the affirmative, PO Danese requested his identification. § 87(2)(b) acknowledged adopting a “smart mouth” toward PO Danese by telling him that he knew he could not be arrested for refusing to provide identification and also by later telling PO Danese to “suck his dick.” (BR 4).

§ 87(2)(b) testified that PO Danese told him, § 87(2)(b) and § 87(2)(b) that the officers had received a call about a fight. He corroborated § 87(2)(b)'s account of the circumstances precipitating PO Danese's request for § 87(2)(b)'s identification. He added that PO Danese turned his attention toward § 87(2)(b) because § 87(2)(b) had laughed at PO Danese's mention of the "rookie cops"(see Allegation A)(BR 6).

§ 87(2)(b) in an unverified telephone statement, noted that PO Danese asked § 87(2)(b) and § 87(2)(b) for identification and that § 87(2)(b) replied that he knew that he did not have to provide his identification. PO Danese handcuffed § 87(2)(b) shortly thereafter (BR 5).

PO Danese testified that Sgt. Brian Beegan sent the officers to this location in response to a civilian complaint, the nature of which was not specified. When PO Danese arrived at the location, he smelled marijuana and alcohol in the air and his intention was to instruct those loitering on the stoop and sidewalk areas to disperse. He made a general announcement to the group to leave the premises. § 87(2)(b) and § 87(2)(b) were standing on the sidewalk while PO Danese spoke with an individual on the steps; the three of them repeatedly shouted at PO Danese, telling him that his questioning was illegal. PO Danese approached them, asked all three of them where they lived, and received no response. PO Danese walked back to the individual on the steps, and the shouting continued. He walked back to § 87(2)(b) and § 87(2)(b) and instructed them to leave. He testified that, of the three individuals, § 87(2)(b) was the loudest and most disruptive. He asked § 87(2)(b) for his identification and informed him that he was going to receive a summons. During this conversation, § 87(2)(b) and § 87(2)(b) walked away (BR 11).

PO Ramos and PO Hughes both testified that the officers responded to the location specifically in regard to a disorderly group. Upon arrival, they each observed 10 to 15 people standing on the sidewalk and stoop of the building; PO Ramos observed the individuals being rowdy but committing no other violations, while PO Hughes testified that he observed them drinking alcohol and smoking marijuana. PO Ramos and PO Hughes reported that after PO Danese instructed the group to disperse, § 87(2)(b) refused to leave and said "Fuck you," to PO Danese. After telling § 87(2)(b) to leave the scene six or seven times, PO Danese requested his identification. PO Hughes elaborated that PO Danese requested identification from § 87(2)(b) and the five or six others that remained with him. At this request, the five or six others walked away from § 87(2)(b) but remained on the block. PO Danese requested § 87(2)(b)'s identification five or six times and § 87(2)(b) cursed and refused in response. PO Danese then informed § 87(2)(b) was going to issue him a summons for disorderly conduct (BR 13 and BR 14).

Officers may ask non-accusatory questions, up to and including requesting identification, if based on an objective and credible reason. A stop requires reasonable suspicion that the individual has committed, is committing, or is about to commit a crime. People v. DeBour, 40 N.Y.2d 210 (1976) (BR 27).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation C – Offensive Language – At § 87(2)(b) in Brooklyn, PO Richard Danese made remarks to § 87(2)(b) based upon gender.**

§ 87(2)(b) alleged that, while standing outside of the police van, PO Danese whispered the following statement to him: “You little pussy bitch, I’ll fuck you up!” § 87(2)(b) testified that he responded, “If I weren’t in these cuffs and you weren’t in that uniform, I’d fuck you up!” (BR 4).

No others reported hearing PO Danese make this statement to § 87(2)(b). PO Danese denied having said it, and PO Hughes, PO Ramos, and Sgt. Andrew Chance (who arrived to verify § 87(2)(b)'s arrest) denied having heard PO Danese say it. Although other civilians were in the vicinity when this statement was alleged to have been made, because PO Danese allegedly whispered these words to § 87(2)(b) it is conceivable that no one else heard them (BR 11, BR 13, BR 14, BR 16).

§ 87(2)(g)

**Allegation D – Force – At § 87(2)(b) in Brooklyn, PO Richard Danese used physical force against § 87(2)(b)**

**Allegation E – Force – At § 87(2)(b) in Brooklyn, PO Julio Ramos used physical force against § 87(2)(b)**

It is undisputed that some measure of physical force was used to place § 87(2)(b) inside of the police van. The extent of that force, and its propriety, remains in dispute.

§ 87(2)(b) testified that he was waiting for his mother to appear with his identification when PO Danese instructed two other officers to “grab his legs, I’ll grab his neck.” PO Danese wrapped his forearm around § 87(2)(b) neck very briefly while the other two officers assisted in hoisting him inside of the van. He landed face-first in the van, and was not injured from this maneuver (BR 4).

§ 87(2)(b) testified that § 87(2)(b) repeatedly refused to enter the van and that he repeatedly asked for his mother. PO Danese then instructed some number of officers to “grab his neck,” then they threw § 87(2)(b) into the van together by holding onto his arms, legs, and neck. § 87(2)(b) was unable to observe where PO Danese and the other officers were positioned on § 87(2)(b)'s body, or to see the exact nature of the physical contact. He observed § 87(2)(b)'s feet in the air as he was being thrown inside (BR 6)

§ 87(2)(b) § 87(2)(b)'s brother, arrived on scene when § 87(2)(b) was already handcuffed and positioned at the entrance to the police van. He testified that PO Danese guided § 87(2)(b) inside of the van by himself while holding onto § 87(2)(b)'s handcuffs and nowhere else on his body (BR 7).

§ 87(2)(b) a resident of § 87(2)(b) who witnessed the incident, reported in an unverified telephone statement that § 87(2)(b) stepped up and entered the van of his own volition (BR 8). § 87(2)(b)'s mother, was on scene but was turned away at the time that § 87(2)(b) entered the police van (BR 9).

§ 87(2)(b) in an unverified telephone statement, reported that after § 87(2)(b) repeatedly told PO Danese to “suck his dick,” PO Danese and other officers slammed him into the van. Because he did not cooperate with the investigation, further detail could not be obtained from § 87(2)(b) (BR 5).

Video footage, captured by § 87(2)(b) recorded § 87(2)(b)'s refusals to enter the van and his demands to have his mother there. The footage also recorded a different male voice saying, “...around the neck,” two times consecutively between 0:34 and 0:36 seconds on the full video. The beginning part of the statement is inaudible (BR 21 and BR 22). § 87(2)(g)

§ 87(2)(g)



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PO Danese testified that § 87(2)(b) repeatedly refused to enter the van, totaling four or five times. § 87(2)(b) called him a “faggot” and told him to “suck his dick.” PO Danese then positioned himself inside of the van and grabbed § 87(2)(b) by the underarm from behind, using his other arm as leverage to hoist § 87(2)(b) inside of the van. He recalled an officer or officers assisting him by grabbing hold of § 87(2)(b)'s legs, but he did not know which officer(s). He testified that he did not make contact with § 87(2)(b)'s neck in the process of getting him into the van, nor did he observe any other officer do so.

PO Ramos also testified that § 87(2)(b) refused to enter the van. PO Danese briefed Sgt. Simon Chance, who arrived to verify § 87(2)(b)'s arrest, on the situation. PO Ramos stated that PO Danese asked Sgt. Chance whether they could “use force – not force, but you know, can we place him in the van?” and Sgt. Chance authorized them to do so. PO Danese and PO Ramos then placed § 87(2)(b) into the van by lifting him up and placing him inside. PO Ramos took hold of § 87(2)(b)'s legs and PO Danese took hold of § 87(2)(b)'s upper body area. PO Ramos denied



making contact with § 87(2)(b)'s neck or observing PO Danese make contact with his neck (BR 13).

PO Hughes testified that PO Danese and another officer placed § 87(2)(b) into the van after § 87(2)(b)'s multiple refusals to enter it willingly. He testified that one officer had § 87(2)(b)'s upper body and one had his lower body but he was uncertain as to their exact positions. He did not observe any officer make contact with § 87(2)(b)'s neck in the process (BR 13).

Sgt. Chance testified that after § 87(2)(b) refused to enter the van, PO Danese and PO Ramos lifted § 87(2)(b) up by his arms (one officer on each side) and placed him inside of the van. He did not observe any officer make contact with § 87(2)(b)'s neck or anywhere on his body aside from his arms (BR 16).

Upon watching the video footage, none of the officers were able to recall the sentence ending with “around the neck,” nor were any of them able to identify the person to make that statement. All of the officers referenced the crowd that had gathered on the sidewalk, parallel to the police van, the existence of which contributed to their need to leave the scene expeditiously.

Officers are to use the minimum force necessary. NYPD Patrol Guide Procedure 203-11 (BR 29).

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)

**Allegation F – Force – En route to the 79<sup>th</sup> Precinct stationhouse, PO Richard Danese used physical force against § 87(2)(b)**

**Allegation G – Force – En route to the 79<sup>th</sup> Precinct stationhouse, PO Richard Danese struck § 87(2)(b) with a blunt instrument.**

All of the events that occurred inside of the police van are in complete dispute.

§ 87(2)(b) alleged that, after being thrown inside of the police van and after the van's doors were shut behind him, he attempted to get up into a seated position. As he did so, PO Danese placed a knee on § 87(2)(b)'s back, forcing him down. When § 87(2)(b) turned his head to see PO Danese behind him, PO Danese punched him on the right side of his face while holding a hard metal object which felt like handcuffs. § 87(2)(b) then turned his head and PO Danese punched him with the other hand on § 87(2)(b)'s left side of the face. In response to the punches, § 87(2)(b) turned his head from side to side and screamed but did nothing else with his body, saying that he was scared to do so. He also reported that PO Danese punched him in the left rib area three or four times during the ride (BR 4).

§ 87(2)(b) testified that, after the van's doors were closed, he immediately observed PO Danese place his knee on § 87(2)(b)'s back while § 87(2)(b) was face-down on the seat. He then observed PO Danese making punching motions by swinging his arm down toward § 87(2)(b)'s body. The police lights were then engaged, obscuring § 87(2)(b)'s visibility (BR 6).

§ 87(2)(b) in an unverified statement, reported that through the van doors, he saw "limbs everywhere," as § 87(2)(b) was "getting beat up" (BR 5).

§ 87(2)(b) testified that, through the van windows, he § 87(2)(b) attempting to sit upright, then observed PO Danese swinging his elbows toward § 87(2)(b) in three punching motions. He could not see PO Danese's actual hands, or where they landed on § 87(2)(b)'s body, but believed that they were aimed toward § 87(2)(b)'s torso area (BR 7).

§ 87(2)(b) testified that he observed PO Danese lean over § 87(2)(b) inside of the van and place a knee on § 87(2)(b)'s chest area, then swing his arms at § 87(2)(b)'s rib area. He saw PO Danese's elbows swinging as well as his fists making contact with § 87(2)(b)'s body, totaling four or five punches (BR 8).

The officers, and the bulk of the police documents, testified to a very different van ride. PO Danese testified that he entered the van and sat to § 87(2)(b)'s right side for transport to the stationhouse. He attempted to place § 87(2)(b) in a fully upright position, so as to fasten § 87(2)(b)'s seatbelt, by grasping § 87(2)(b)'s underarm. He was not successful in doing so. Approximately halfway through the two-minute drive to the stationhouse, § 87(2)(b) began

scratching at PO Danese's *left* lower forearm, wrist, and hand (the side of his body closest to § 87(2)(b) with a set of keys. PO Danese stated that he noticed § 87(2)(b) holding the keys earlier, but had thought little of it because at the time § 87(2)(b) was behaving compliantly. § 87(2)(b) simultaneously spat at PO Danese a few times. AIDED paperwork and a Line of Duty Injury Report were generated for PO Danese, both of which documented that he suffered a laceration to his *right* hand during this incident. It is unclear what significance this inconsistency regarding the injured hand may have, but it points to the possibility that PO Danese's account of his position relative to § 87(2)(b) during the van ride is not entirely credible (BR 11, BR 31).

In response to being scratched with the keys, PO Danese testified that he simply used his left arm to push § 87(2)(b) by his shoulder toward the window, so as to create distance between the two of them. No additional forms of restraint were necessary. PO Danese denied having placed his knee on § 87(2)(b)'s back, denied having punched him in the face with handcuffs or in the face at all, and denied having punched § 87(2)(b) in the rib area (BR 11).

PO Ramos testified that, after being placed inside of the police van, § 87(2)(b) immediately began kicking and jumping around. It seemed as though he was attempting to kick the windows of the van out. PO Danese was seated to § 87(2)(b)'s right, on the same row of the van. PO Ramos, who drove the van to the stationhouse, testified that he did not glance back at any point to observe what was occurring in the back seats. Because the van lights and sirens were engaged for the entire ride, he was unable to hear anything that may have been occurring. He did not hear § 87(2)(b) spit or hear any sounds consistent with someone being struck or with § 87(2)(b) behaving violently (BR 13).

PO Hughes, who rode in the front passenger seat of the van, testified that § 87(2)(b) kicked at the windows and yelled when PO Hughes first entered the van. Very shortly into the ride, he observed PO Danese restraining § 87(2)(b) by holding onto his shoulder, which he stated was necessary because if prisoners move too much it tightens their handcuffs. PO Hughes did not recall whether he heard any sounds consistent with § 87(2)(b) being struck, nor did he recall observing PO Danese place his knee on § 87(2)(b)'s back, his arm around § 87(2)(b)'s neck, or punch him in the face or ribs. He did not recall hearing either § 87(2)(b) or PO Danese cry out in pain. To PO Hughes's recollection, § 87(2)(b) stopped kicking as soon as the van left § 87(2)(b) and he remained calm for the rest of the ride, even apologizing to the officers (BR 14).

The video footage does not show any of these allegations. § 87(2)(g) at one specific moment, the crowd erupts in unison. The doors of the van are closed and nothing is visible to the camera through them. § 87(2)(b) is heard shouting, "He's got his knee on him! Look, he's hitting him! He's got his knee on him!" and other voices are heard shouting versions of "He's hitting him!" In the video's final seconds, § 87(2)(b) can be heard yelling "No! Don't hit my fucking brother!" and the video ends (BR 21 and BR 22).



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When the officers were shown the video during their CCRB interviews and questioned about the crowd's unified reaction, none were able to offer insight as to the source of that reaction. PO

Danese offered that the van's windows were completely un-tinted, and that the crowd could see everything; crowds always erupt without cause during arrests, PO Danese stated. In contrast, when PO Ramos was shown the video and asked about the witness's reactions, he stated, "That's physically impossible to see that from where they're standing. That van is 8-feet high and we have pitch-black tints." PO Hughes stated that he was already on the other side of the van while this occurred and he remembered the crowd as being consistently loud throughout the incident.

§ 87(2)(b) provided the CCRB with photographs of his injuries, which were taken the day of his release from Central Booking, July 29, 2015. § 87(2)(b) his mother, took the photographs. They show a circular-shaped bruise to § 87(2)(b)'s right side of his face, near his right ear, as well as a small cut to the right side of his face. Another photograph shows bruising to § 87(2)(b)'s chest. He explained that he sustained these injuries from PO Danese's punches (BR 24, BR 25, BR 30).

§ 87(2)(b) received medical attention from § 87(2)(b) on § 87(2)(b), the day of his release from central booking. He complained of being assaulted by the officers in the back of a police van and was diagnosed with an abrasion and bruising to the upper right side of his face as well as tenderness to both sides of his lower back (see medical records).

In viewing the photographs of his injuries that § 87(2)(b) provided the CCRB, PO Danese, PO Hughes, and PO Ramos, all testified that they did not observe any of these injuries on § 87(2)(b) nor did they know how he had sustained them. PO Danese stated, "I would say, after the arrest and after he got released from Central Booking, he probably took care of business"(BR 11).

The following officers interacted with or may have interacted with § 87(2)(b) at the stationhouse, and were interviewed in regards: Sgt. Simon, the desk sergeant; PO Chris Maldonado, whom § 87(2)(b) identified as having been in the cells area whom he spoke with; PO Sean O'Connor, who was another cell attendant. None of these officers remembered § 87(2)(b) and therefore could not speak to what, if any, injuries he presented. Sgt. Beegan saw § 87(2)(b) briefly at the stationhouse and testified that he had no visible injuries on him (BR 17, 15, 18).

No physical altercations occurred between inmates inside of the stationhouse on this evening. § 87(2)(b)'s relatives reported that he was not injured prior to this arrest, nor did any of the officers claim that § 87(2)(b) was already injured when they began interacting with him.

§ 87(2)(b)'s arrest photographs show only a front-facing view and a left-facing view. Given that § 87(2)(b) reported injuries to both the right and left sides of his face, the arrest photographs cannot be entirely conclusive. They do show, however, the same small scratch to the upper left side of § 87(2)(b)'s face that the photographs § 87(2)(b) provided the CCRB contain, lending credibility to the authenticity of § 87(2)(b)'s photographs (BR 23).

There is one police document which does note an injury to § 87(2)(b) The Medical Treatment of Prisoner Report, which was generated at the 79<sup>th</sup> Precinct stationhouse and signed by § 87(2)(b) at 11:00pm on the night of the incident, notes, "Deft. has swelling to left side of face." (BR 20).

PO Ramos, PO Danese, PO Hughes, and Sgt. Beegan all testified that § 87(2)(b) showed absolutely no visible injuries. The Medical Treatment of Prisoner Report, which was generated 40 minutes after § 87(2)(b) alleged to have sustained his injuries, documents that § 87(2)(b) was injured to one side of his face. § 87(2)(g)

§ 87(2)(g)

Officers are to use the minimum force necessary. NYPD Patrol Guide. (BR 29).

§ 87(2)(g)

**Allegation H – Force – En route to the 79<sup>th</sup> Precinct stationhouse PO Richard Danese used a chokehold against § 87(2)(b)**

**Allegation I – Force – En route to the 79<sup>th</sup> Precinct stationhouse, PO Richard Danese restricted § 87(2)(b)'s breathing.**

§ 87(2)(b) alleged that, while positioned face-down in the back of the police van, PO Danese placed him in a chokehold by wrapping his arm around § 87(2)(b)'s neck in a headlock maneuver. He reported that he was held in such a position, which restricted his breathing, for nearly the entirety of the 3-minute drive to the stationhouse. He testified that he continually screamed, gasped for air, and told PO Danese that he had asthma and was going to die. He described this allegation consistently in his initial telephone statement, his sworn statement, and a follow-up telephone statement (BR 4, BR 10).

§ 87(2)(b) reported witnessing an officer place § 87(2)(b) in a chokehold while he stood observing outside of the police van. Because § 87(2)(b) like two other witnesses, testified that there were actually two officers in the back of the van with § 87(2)(b) his description of the chokehold's mechanics differed from § 87(2)(b)'s account. Specifically, § 87(2)(b) reported seeing an officer positioned behind § 87(2)(b) wrap his right arm around § 87(2)(b)'s neck and hold him in that position as the van drove away. § 87(2)(b) maintained a visual of this maneuver for seven or eight seconds through the van's windows as it drove by him (BR 7).

PO Danese denied having made contact with § 87(2)(b)'s neck in any way during the ride, or with any part of his body that could have been misconstrued by onlookers as his neck. He stated that § 87(2)(b) made repeated statements about Eric Garner and his certainty that he could get

paid. His memo book notes these alleged statements as well. PO Danese testified that § 87(2)(b) never verbalized that he was struggling to breathe or otherwise showed signs of that difficulty (BR 11).

PO Ramos and PO Hughes denied having observed PO Danese make contact with § 87(2)(b)'s neck. As discussed above, they each testified that they barely, if at all, turned around during the ride to observe § 87(2)(b) and PO Danese's physical positions. When asked directly, PO Ramos stated that he did hear § 87(2)(b) yell that he was unable to breathe, but PO Ramos did not pay it much attention because § 87(2)(b) was yelling throughout the ride. PO Hughes testified that he did not hear § 87(2)(b) complain of having difficulty breathing and that he was calm and apologetic during the ride (BR 13, BR 14).

The photographs that § 87(2)(b) provided the CCRB, which were taken the day of his release from police custody, show bruising to the left side of § 87(2)(b)'s neck. The arrest photographs show the same bruising. All of the officers interviewed for this case testified that they did not observe the neck bruising on § 87(2)(b) nor did they observe any actions that could have resulted in such bruising.

At § 87(2)(b) on § 87(2)(b), § 87(2)(b) was diagnosed with tenderness to the left side of his neck (see medical records).

Officers are prohibited from using a chokehold. A chokehold is defined as any pressure to the throat or windpipe area which may prevent breathing. NYPD Patrol Guide Procedure 203-11 (BR 29).

§ 87(2)(g)  
[REDACTED]

**Allegation J – Abuse of Authority – At the 79<sup>th</sup> Precinct stationhouse, PO Richard Danese did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(b) alleged that he asked PO Danese to go to the hospital twice at the stationhouse. He first made this request while PO Danese was walking him from the front desk to the cell area, and PO Danese allegedly replied that he needed to verify § 87(2)(b)'s identity first. Later, when PO Danese returned to the cells, § 87(2)(b) requested again to go to the hospital, and PO Danese told him that his transport vehicle was ready to take him to Brooklyn Central Booking if he could agree to defer treatment until then. § 87(2)(b) agreed. He was examined by emergency medical technicians at Central Booking (BR 4).

§ 87(2)(b) and § 87(2)(b) both stated that § 87(2)(b) placed a call to them from the 79th Precinct stationhouse, alleging that the officers had hurt him and that he had asked for, and been denied, medical attention (BR 7, BR 9). Phone calls were made and letters were mailed to the three other prisoners in the cell area at the time of these allegations, but only one individual was successfully contacted and he did not remember § 87(2)(b) (BR 12).

PO Danese testified that he asked § 87(2)(b) whether he required medical attention and that § 87(2)(b) stated that he did not. PO Danese said that he asked § 87(2)(b) this question twice, once in front of the desk and once in the cell area, and that § 87(2)(b) refused medical attention. PO Danese explained that § 87(2)(b)'s father, § 87(2)(b), had appeared at the stationhouse in response to a phone call from his son about being injured and being refused medical care. In response, PO Danese showed § 87(2)(b) a front-facing photograph of his son, taken from the Prisoner Movement slip, which showed an unmarred face. This allayed § 87(2)(b)'s concerns about his son's physical condition, and he left the stationhouse (BR 11).

None of the officers interviewed reported that § 87(2)(b) requested medical attention. Sgt. Beegan testified that PO Danese told him that § 87(2)(b) refused medical attention, but stated that he did not actually hear PO Danese ask. PO Ramos was not in the vicinity when these requests would have occurred. PO Hughes stated that he heard PO Danese ask § 87(2)(b) in front of the desk whether he required medical attention and he heard § 87(2)(b) refuse it. The other officers interviewed did not remember § 87(2)(b) being at the stationhouse and could not address whether § 87(2)(b) requested medical attention from any officer. (BR 19, 13, 14).

The Medical Treatment of Prisoner Report was signed by § 87(2)(b) and indicates that he refused medical aid (BR 20). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation K – Discourtesy – At the 79<sup>th</sup> Precinct stationhouse, PO Richard Danese spoke discourteously to § 87(2)(b)**

§ 87(2)(b) alleged that, while verifying his identification, PO Danese approached him in the cell area and asked, “This isn’t a fucking game. What’s your real name?” (BR 4).

PO Danese denied making this statement to § 87(2)(b) or using any profanity toward him. The other six officers in the stationhouse who were interviewed testified that they did not hear any officer make this statement to any prisoner (BR 11).

§ 87(2)(g)

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§ 87(2)(g)

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Pod: 15

Investigator: \_\_\_\_\_  
Signature Print Date

Pod Leader: \_\_\_\_\_  
Title/Signature Print Date

Attorney: \_\_\_\_\_  
Title/Signature Print Date